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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,516	09/11/2003	Robert L. Way	D-7438	3615

7590 09/22/2005

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EXAMINER

SPAHN, GAY

ART UNIT

PAPER NUMBER

3673

DATE MAILED: 09/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/659,516	Applicant(s) WAY, ROBERT L.	
	Examiner Gay Ann Spahn	Art Unit 3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-10 and 12-21 is/are pending in the application.
- 4a) Of the above claim(s) 10,12-16 and 19-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-9,17 and 18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119


- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Election/Restrictions

Applicant's election with traverse of the species of Figs. 1 and 5-10 (with respect to the species of boat lift) the species of Fig. 3 (with respect to the species of cable handling unit) in the reply filed on 09 June 2005 is acknowledged.

The examiner notes that Applicant's election of the species of Fig. 1 and the species of Figs. 5-10 (with respect to the species of boat lift) is non-responsive as the election of species requirement mailed on 05 May 2005 clearly stated, on page 3, the second full paragraph, that:

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Instead of electing a single species as required, Applicant elected the species of Fig. 1 and the species of Figs. 5-10 with traverse and stated that his traversal was on the grounds that "[A]pplicant believes that there is no patentable distinction between the vertical or inclined nature of the pilings."

Although, this is not found persuasive, to advance prosecution, the examiner will examine the species of Fig. 1 and the species of Figs. 5-10 with the understanding that Applicant has admitted on the record that the species of Fig. 1 is an obvious variant of the species of Figs. 5-10 and thus, if the examiner finds one of the inventions

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unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

The election of species requirement is still deemed proper and is therefore made FINAL.

In the Election and Amendment filed 09 June 2005, Applicant stated in his remarks section on page 8, paragraph no. 3, that claims 1, 3-8, and 17 read on the provisionally elected species. However, Applicant also stated that he feels that claims 9 and 15 should be included in view of his admission that inclined pilings are obvious variants of vertical pilings. The examiner agrees that claim 9 reads on the provisionally elected species and will examine claim 9. However, the examiner does not agree that claim 15 reads on the provisionally elected species because claim 15 is dependent upon claim 10 and claim 10 reads on the species of Fig. 2 which is a non-elected species. Therefore, claims 10 and its dependent claims (namely, claims 12-16 and 19-21) will not be examined as being drawn to a non-elected species of cable-handling unit (i.e., the species of Fig. 2) and are withdrawn from further consideration by the examiner. The examiner will proceed with the examination of claims 1, 3-9, 17, and 18.

Drawings

The drawings are objected to because:

(1) Fig. 1, reference numerals 24, 59, 60, 61, and 62 are shown, but not discussed in the specification;

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(2) Figs. 3, 4, and 6, reference numeral 48 is shown, but not discussed in the specification;

(3) Figs. 3 and 4, the lead lines and arrowheads leading from reference numerals 21' and 21" appear to be pointing to the entire structure of the respective figure which is a cable-handling unit (CHU) and therefore, the examiner suggests changing "21' " to --15'-- and "21" " to --15"-- (however, if such is done, applicant will also have to change "top cover 15' " on page 6, lines 4 and 26 (and wherever else it appears in the specification), to something like --TC-- for "top cover" because the same reference character cannot be used to designate two different structures) and additionally, Applicant should change all of the reference numeral in Fig. 3 to include a prime (to show that the reference numerals correspond to the second embodiment of the cable-handling unit (15')) and all the reference numerals in Fig. 4 to include a double prime (to show that the reference numerals correspond to the third embodiment of the cable-handling unit (15"));

(4) Fig. 9, reference numerals 58, 59, and 61 are shown, but not discussed in the specification;

(5) Figs. 11 and 14, reference numeral 96 is shown, but not discussed in the specification;

(6) Fig. 11, reference numerals "40" and "42" should be changed to --40'-- and --42"--, respectively, as is consistent with the discussion of Figs. 11 and 12 on pages 9-10 of the specification;

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(7) Fig. 12, reference numerals "29", "30", "39", "40", "42", and "45" should be changed to --29'--, --30'--, --39'--, --40'--, --42'--, and --45'--, respectively, as is consistent with the discussion of Figs. 11 and 12 on pages 9-10 of the specification;

(8) Fig. 12, reference numerals 96, 97, and 98 are shown, but not discussed in the specification;

(9) Fig. 12, the lead line leading from reference numeral "99" is not leading to the upper strap on first member 94, but rather appears to be leading to the end of bunk 30;

(10) Fig. 12, reference numeral "12" should be changed to --12'-- (see no. 12 and 15 below in the objections to the specification);

(11) Fig. 13, reference numerals 122 are shown, but not discussed in the specification;

(12) Fig. 13, reference numeral "12" should be changed to --12'-- (see no. 15 below in the objections to the specification);

(13) Fig. 14, reference numeral --12'-- should be inserted to represent another alternate embodiment of the boat lift; and

(14) Fig. 15, the "TO 15" at the bottom of the figure should be explained in the specification or deleted.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure

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is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The disclosure is objected to because of the following informalities:

(1) page 4, in the Brief Description of the Several Views of the Drawing, Fig. 4 is believed to be showing an alternate embodiment of the cable-handling unit of Fig. 2 similar to Fig. 3, and not an alternate embodiment of the boat lift of Fig. 1 as is described therein;

(2) page 6, line 3, reference numeral "14" is given to represent the lift means, but is not shown in the drawing figures;

(3) page 6, line 8, it is believed "brackets 49" should be changed to --brackets 49, 50 (see Fig. 1)--;

(4) page 6, line 12, reference numeral "31" should be changed to --11-- to represent the dock as on page 5, the last line, and page 6, line 8;

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(5) page 6, line 15, reference numeral "20" is discussed with respect to Fig. 2, but not shown therein;

(6) page 6, line 25, reference numeral "53" should be changed to --19-- to represent the fluid reservoir as on page 6, lines 17 and 18;

(7) page 6, line 28, reference numeral 17 is discussed, but not shown in the drawings;

(8) page 6, line 18, it is suggested that "In an alternate embodiment, as shown in Fig. 3," would be more understandable if changed to --In an alternate embodiment of the cable-handling unit (CHU) 15' of the present invention, as shown in FIG. 3,--;

(9) page 7, lines 18-21, it is suggest that this paragraph be rewritten to --In an alternate embodiment of the cable-handling unit (CHU) 15' of the present invention as show in Fig. 3, pulley 34' is removed from the CHU 15' and is replaced with a support member 41'. Such a support member secures one end of each cable 39', 40' as the cables are guided through the pulleys 33', 35', 36', in a manner clearly shown.

(10) page 7, line 22, it is believed that "FIG. 4 shows yet an alternate embodiment of the present invention" should be changed to --FIG. 4 shows yet another alternate embodiment of the cable-handling unit (CHU) 15" of the present invention--;

(11) page 7, line 22 through page 8, line 2, all the reference numerals associated with the third embodiment of the cable-handling unit (CHU) 15" should be amended to include a double prime;

(12) page 8, line 12, "FIG. 11" should be changed to --FIG. 10-- because that is where the locking device 65 is shown;

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(13) page 8, line 23, it is believed words such as --on the-- should be inserted between the words "positioned" and "far side" for correct grammar;

(14) page 9, line 28, reference numeral "12" should be change to --12'-- to represent the alternate embodiment of the boat lift;

(15) page 9, lines 29 and 31, pilings 22 and 23 are discussed with respect to Figs. 11 and 12, but are not shown in either Fig. 11 or Fig. 12;

(16) page 9, line 30, reference numerals 40' and 39' are discussed with respect to Figs. 11 and 12, but are not shown in either Fig. 11 or Fig. 12;

(17) page 10, line 13, reference numeral "20' " should be changed to --12'-- to represent the alternate embodiment of the boat lift and "FIGS. 12-14" should be changed to --FIGS. 11-12-- since the remainder of the paragraph seems to be discussing the embodiment in those figures;

(18) page 10, line 15, reference numeral "21' " should be changed to --15-- to represent the cable-handling unit (CHU);

(19) page 10, line 16, reference numeral "31" should be changed to --11-- to represent the dock;

(20) page 10, line 20, reference numeral "53" is not believed to be shown in the drawing figures;

(21) page 11, line 1, reference numeral "12" should be changed to --12'-- to represent the second alternate embodiment of the boat lift;

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(22) page 11, line 2, reference numerals 103 and 104 are "tilted pilings", but page 11, line 6, the same reference numerals are said to be "guide trolleys" and the same reference numerals cannot be used to represent two different structural elements;

(23) page 11, line 2, reference numerals 105 and 106 are said to be "a respective pair of elevator trolleys", but page 11, line 11, reference numerals 104 and 105 are said to "pilings" and the same reference numerals cannot be used to represent two different structural elements;

(24) page 11, line 11, it is believed that "pilings 104 and 105" should be changed to --pilings 103 and 104--;

(25) page 11, line 12, reference numeral "12" should be changed to --12"-- to represent the another alternate embodiment of the boat lift;

(26) page 13, line 11, reference numeral "20' " should be changed to --12-- or to --12, 12', 12", 12'"-- and reference numeral "21' " should be changed to --15-- or --15, 15', 15";

(27) page 13, line 15, reference numeral "21' " should be changed to --15-- or to --15, 15', 15"--;

(28) page 13, lines 15, 16, and 17, reference numeral "32' " should be changed to --32--; and

(29) page 13, line 17, "rod 18" should be changed to --piston arm 18--.

Appropriate correction is required.

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 3-9, 17, and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, lines 3, 4, 7, 13, 14, and 17, recite "a dock" which lacks antecedent basis and is confusing because it is not clear if the "dock" recited in lines 3, 4, 7, 13, 14, and 17 is referring back to the "dock" recited in line 1 or another dock. Therefore, the examiner suggests changing the recitation of "a dock" in lines 3, 4, 7, 13, and 14 to either --the dock-- or --said dock--.

Claim 1, line 12, the recitation of "said piston" lacks antecedent basis and should be changed to --said piston arm--.

Claim 4, lines 2-4, recite "each guide member being slidably engaged with each said piling for inhibiting lateral movement of said cradle when said cradle is being moved vertically" is confusing because it appears to state that each one of the two guide members is slidably engaged with each one of the two pilings. For clarity, the examiner suggests reciting first and second guide members and first and second pilings

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and reciting that the first guide member is slidably engaged with the first piling and the second guide member is slidably engaged with the second piling.

Claim 7, lines 4-6, recite "said cradle further including a pair of elongate bunks secured onto and extending transversely across said pair of bunk rails for maintaining a water vessel therebetween" and the term "water vessel" is confusing because a water vessel could be a pitcher. The examiner suggest changing the term "a water vessel" to --a sea-going vessel--.

Claim 9, line 3, recites "a dock" and line 4, recites "dock" which lacks antecedent basis and is confusing because it is not clear if the recitation of "a dock" in line 3 and "dock" in line 4 is referring back to the "dock" recited in claim 1. Therefore, the examiner suggest changing "a dock" in line 3 and "dock" in line 4 to either --the dock-- or --said dock--.

Claim 17, lines 4 and 6, recite "a dock" which lacks antecedent basis and is confusing because it is not clear if the "dock" recited in lines 4 and 6 is referring back to the "dock" recited in line 1 or another dock. Therefore, the examiner suggests changing the recitation of "a dock" in lines 4 and 6 to either --the dock-- or --said dock--.

Claim 17, line 7, the recitation of a first plurality of pulleys attached to said piston arm is confusing because only one pulley (33 in Fig. 3) is attached to the piston arm (i.e., not all of the plurality of pulleys are attached to the piston arm) and line 9, the recitation of "said cable-handling unit" lacks antecedent basis and is confusing because it is unclear the recitation of "said cable-handling unit" in line 9 is attempting to refer back to the "cable-handling system" recited in lines 1-2 of claim 17. The examiner notes

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that the cable-handling system is different from the cable-handling unit and therefore, suggests that lines 5-7 be amended to recite --a cable-handling unit which includes a movable piston arm, an oppositely disposed stationary cylinder end secured to the dock, and a first plurality of pulleys, wherein at least one pulley of the first plurality of pulleys is attached to said piston arm--.

Claim 17, line 12, the recitation of "a pair of elongate cables each having one end routed through said piston arm" is confusing because the cables are routed through the pulley attached to the piston arm and therefore, the examiner suggests amending to say --a pair of elongate cables each having one end routed through said at least one pulley of said first plurality of pulleys which is attached to said piston arm--.

Claim 17, line 20, the recitation of the "cylinder" lacks antecedent basis and it is suggested that "cylinder" be amended to --said cylinder end--.

Response to Arguments

Applicant's arguments with respect to claim 1, 3-10 and 12-21 have been considered but are moot in view of the new grounds of rejection.

Allowable Subject Matter

Claims 1 and 17 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

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Claims 3-9 and 18 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent No. 4,509,446 to Sutton (see Fig. 5) discloses a dock (16) having a cylinder end of a hydraulic ram (100) and at least one pulley (58) attached to thereto. U.S. Patent No. 4,329,082 to Gillis (see Figs. 1-2) discloses a

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shiplift apparatus wherein cylinder ends of fluid-operated cylinders (74, 74a, 74c, 74d and 74, 74a, 74c, 74d) are attached to a dock as are a plurality of pulleys (65, 65a, 65b, 65c; 69, 69a, 69b, 69c; 70, 70a, 70b, 70c; and 43, 43a, 43b, 43c; 44, 44a, 44b, 44c).

Various boat lifts are disclosed in U.S. Patent Nos. 6,695,533 to Bulman, 5,051,027 to Horton, 5,378,082 to Hiller et al., 5,772,360 to Wood, III, 6,230,639 and 6,640,736 to McLaughlin et al., 6,470,816 to Golden et al., 6,484,655 and 6,494,155 to Gibson, 5,655,850 to Holmgren, 4,641,596 to Reprogle et al., 5,099,778 to Palen, 4,973,094 to Tana et al., 5,915,877, 5,988,941, and 6,709,197 to Sargent et al., 3,073,125 to Pearlson, 6,174,106 to Bishop et al., and 6,554,533 to Godbersen, and in U.S. Patent Application Publication Nos. 2002/0083876 to Gibson, 2001/0006590 to Bishop et al., 2005/0013663 to Basta, 2005/0087116 to Golden et al., and 2005/0047867 to Edson.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gay Ann Spahn whose telephone number is (571)-272-7731. The examiner can normally be reached on Monday through Thursday, 8:30 am to 7:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather C. Shackelford can be reached on (571)-272-7049. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Gay Ann Spahn, Patent Examiner
September 18, 2005



**MICHAEL SAFAVI
PRIMARY EXAMINER
ART UNIT 354**